

In the United States Bankruptcy Court  
for the  
Southern District of Georgia  
Brunswick Division

In the matter of:

CONSOLIDATED MOTORS  
& INVESTMENTS, INC.

*Debtor*

FIRST GEORGIA BANK

*Movant*

v.

CONSOLIDATED MOTORS  
& INVESTMENTS, INC.  
and  
STEPHEN L. JACKSON

*Respondents*

Chapter 7 Case

Number 95-20293

FILED

at 8 O'clock & 51 min. A.M

Date 6/10/96

MARY C. BECTON, CLERK  
United States Bankruptcy Court  
Savannah, Georgia *LB*

ORDER ON MOTION FOR RELIEF FROM STAY

The above case was filed on April 17, 1995, under Chapter 11 and converted to a Chapter 7 liquidation case on October 5, 1995. Among the assets of the estate is a 6.54 acre parcel of vacant land located near the intersection of Interstate 95 and U. S. Highway 341. At an earlier hearing in this case, on September

7, 1995, the parties stipulated the value of the property at \$475,000.00. At the hearing to consider the Motion for Relief from Stay filed by First Georgia Bank ("First Georgia") the evidence revealed that as of the date of filing First Georgia was owed substantial sums of money secured by this real estate and by an assignment of the proceeds of a life insurance policy on one of Debtor's principal's which proceeds have subsequently been paid over to First Georgia Bank. Accordingly, the net principal balance on the indebtedness owed First Georgia as of the time of the hearing was approximately \$285,000.00 with post-petition accrued interest increasing the debt to \$301,828.00.

At the hearing on First Georgia's Motion on April 30, testimony was received from an expert witness who had appraised the real estate and had arrived at a value of \$308,000.00 for the property in question. This lower appraised value was apparently arrived at by the expert because he considers the entire tract to be unsuitable for commercial development. One of the problems impairing the value of the tract is the lack of commercial water and sewage service which limits its development. Accordingly, the expert concluded that approximately two acres of the tract could be considered suitable for commercial development and slightly over four and one-half acres should be appraised at residential values. The commercial property he appraised at \$100,000.00 per acre and the residential at \$25,000.00, yielding a total combined value of \$308,000.00. Based on the adjusted appraisal figures, First Georgia

urges that relief from the automatic stay be granted in light of the fact that the property has been on the market since at least September 1995 and that there has been no tangible progress toward obtaining a sale and because the property lacks equity. In opposition, the Trustee believes that given adequate time to market the property and by utilization of a new real estate firm that the property can be sold for a figure in excess of \$308,000.00 which would satisfy the claim of First Georgia and yield a net recovery to the estate for the benefit of unsecured creditors. Based on the testimony of the expert I concluded at the close of the hearing that there is only a small margin of equity in the property, if any. However, upon reconsideration, I conclude that given a value of \$308,000.00 in contrast to a net claim as of the date of filing of approximately \$285,000.00 that there is in fact sufficient equity to warrant the efforts of the Trustee in marketing this property for an additional reasonable period of time.

11 U.S.C. Section 362 provides in pertinent part as follows:

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay--

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;

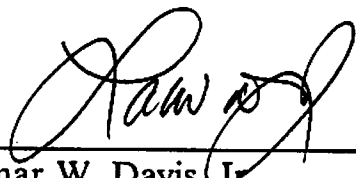
(2) with respect to a stay of an act against property under subsection (a) of this section, if--

(A) if debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization;

Because there is some equity in the property, because of the much higher appraisal that was stipulated by the parties within the past year, and because of the uncontradicted testimony that the property is not depreciating in value, I conclude that First Georgia's motion shall be, and the same is, hereby denied.

The Trustee is directed, if he has not already begun to do so, to aggressively market this property at a price, by utilization of a professional, and otherwise, in such a manner as to insure the liquidation, within a reasonable time, of this property prior to the time that the lender's equity margin is completely consumed by interest accrual to which it is entitled under 11 U.S.C. Section 506.

  
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Lamar W. Davis, Jr.  
United States Bankruptcy Judge

Dated at Savannah, Georgia

This 7th day of June, 1996.